

REMARKS

This is in response to a Final Office Action mailed September 26, 2006, having a due date, with time extensions, of February 26, 2007. This amendment is being submitted with a two-month extension of time. For the reasons discussed below, it is submitted that all pending claims 33-34, 36-37, 40-55, 57-58 and 60-77 are in condition for allowance.

Amendment to Claims

Applicants herein submit an amendment to claim 77, not adding any new matter beyond the application as originally filed. For example, page 27, lines 24-29 of the Specification, as originally filed, describes a supporter electronically contributing to an online campaign.

Rejection of Claims under 35 U.S.C. §112, ¶2

Claim 77 stands rejected under 35 U.S.C. §112, ¶2. The Patent Office contends that these claims are indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicants respectfully disagree, but in order to advance the prosecution of the present matter, Applicants herein amend claim 77 to recite the step of "receiving a charitable contribution to the fundraising campaign via the wide area network from the donor." Thereby, this overcomes the Examiner-noted confusion regarding who receives the donation and how the donation is received. Applicants respectfully request withdrawal of this rejection.

Rejection of Claims Under 35 U.S.C. §§102/103

Claims 33-34, 36-37, 40-55, 57-58 and 61-76 stand rejected under 35 U.S.C. § 102(e). The Patent Office contends that these claims are anticipated by or, in the alternative, under 35 U.S.C. § 103(a) obvious over US 2002/0049816 A1 ("Costin, IV et al.").

Costin was originally filed on March 26, 2001 and has a priority based on Provisional Application Serial No. 60/191,758 filed on March 24, 2000. Attached hereto, Applicants submit a signed updated Declaration executed by the inventors, Eric Aubertin and Eric Vaillancourt, under 37 C.F.R. §1.131 attesting that the present invention was conceived and reduced to practice prior to March 24, 2000.

For brevity's sake, Applicants resubmit the position offered in the response filed June 30, 2006, that the Promotional Flyer of the Declaration Exhibit 1 provides that the present invention was conceived and reduced to practice prior to March 24, 2000.

In the Response to Arguments section, the Declaration is deemed to be defective for two reasons: (1) there is no date on the promotional flyer; and (2) no picture of a Fundraising campaign. Applicants respectfully disagree, but to advance the prosecution, Applicants herein submit the following updated Declaration under 37 C.F.R. §1.131.

The updated declaration includes four further exhibits, in addition to resubmitting the promotional flyer of Exhibit 1.

Exhibit 2 is a copy of the printing invoice from Beloin Graphique, Inc. dated October 6, 1999 for printing the promotional flyer of Exhibit 1. This printing invoice overcomes the Examiner's reason for defectiveness because this shows the flyers were generated before Costin's priority date of March 24, 2000.

Exhibit 3 is a copy of the invoice from The Northeast Group, dated December 30, 1999, for processing, handing and mailing the promotional flyer of Exhibit 1. This invoice overcomes the Examiner's reason for defectiveness because this shows the flyers were processed, handled and mailed before Costin's priority date of March 24, 2000.

Exhibit 4 is a copy of the invoice from Diesel, dated October 13, 1999, for the graphical design and lay out of the promotional flyer of Exhibit 1. This invoice overcomes the Examiner's reason for defectiveness because this shows the flyers were processed, handled and mailed before Costin's priority date of March 24, 2000.

Exhibit 5 is a copy of the invoice from Fracture, dated June 28, 1999 and January 15, 2000, for services relating to consultations for the online marketing and operation of the web site that is pictured in the promotional flyer of Exhibit 1. This invoices provides additional support that Applicants generated an interactive web site available for conducting fund raising activities, as claimed herein.

Additionally, Applicants respectfully disagree with the Examiner's position that the Declaration is defective based on the listed shortcomings of (1) no date on the picture; (2) no support for "donating money"; (3) missing functionality of the web site; and (4) no illustration of carrying out the claimed steps.

Regarding element (1), Applicants direct the Examiner to Exhibits (2) – (4) supporting the flyer, and hence the image on the flyer, being generated prior to March 24, 2000. Regarding element (2), Applicants direct the Examiner to left hand column on the sample web page that includes the selectable text "make a donation," which supports the position that this web site was usable for donating money. Regarding element (3), Applicants direct the Examiner to Exhibit (4), the consulting agreement. While not explicitly stated, it is inherently understood that consulting services were usable with a functioning web site.

Additionally, it is inherently understood that in preparing and mailing out the promotional flyer of Exhibit 1, Applicants had the supporting web site publicly available as it is unreasonable that Applicants would be dedicating time and money developing and promoting a non-functioning website.

Applicants further submit that the Examiner's failure to accept the Declaration is improper because under 37 C.F.R. §1.131, the statements must be facts, and these facts are supported by the Exhibits. (37 C.F.R. §1.131(b)). Additionally, MPEP §705.07 provides that "**facts**, not conclusions, must be alleged. Evidence in the form of exhibits **may** accompany the affidavit or declaration." (emphasis added). Rather, an accompanying exhibit is not required to support all the claimed limitations, as long as the missing limitations are supported by the Declaration. Ex Parte Ovshinsky, 10 U.S.P.Q.2d 1075 (Bd. Pat. App. & Inter. 1989) as cited in MPEP §715.07.

In this case, Applicants attest to the facts that the Applicants conceived the subject matter described and claimed in the present application. (Attached Declaration ¶¶ 2, 4). The stated facts of the attached Declarations are attested to under 18 U.S.C. §1001. It is submitted that the exhibits for the attached Declaration provide evidentiary support for all of the claimed limitations, but for any limitations that the Examiner feels is absent, the Declaration properly and effectively asserts, attested to under 18 U.S.C. §1001, facts supporting conception and reduction to practice of the claimed invention prior to March 24, 2000.

In view of the Declaration executed under 37 C.F.R. §1.131, Applicants respectfully submit that Costin is not prior art. Therefore, the rejection of claims 33-34, 36-37, 40-55, 57-58 and 61-76 based in whole or in part on Costin should be withdrawn.

CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that all of the presently pending claims 1-34, 36-37, 40-55, 57-58, 61-77 are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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Dated: February 26, 2007

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